

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building

Room 210

9:00 a.m.

August 19, 2015

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Jeffery Nielsen, Chief Investigator
Justin Barney, Hearing Officer
Jennie Jonsson, Administrative Law Judge
Elizabeth Harris, Assistant Attorney General
Renda Christensen, Board Secretary
Mark Schaerrer, Investigator
Kadee Wright, Investigator
Jennica Gruver, Real Estate Education Coordinator
Jill Kelsch, Division Staff
Jodie Carter, Division Staff
Sarah Nicholson, Division Staff

COMMISSION MEMBERS PRESENT:

Russell K. Booth, Chair
Lerron E. Little, Vice Chair
Calvin R. Musselman, Commissioner
Lori Chapman, Commissioner
William O. Perry, IV, Commissioner

GUESTS:

Tammy Lund	Shane Norris
Susan Aguilar	Peter Christensen
Gary Leavitt	Brian Swan
Dan Naylor	Jared Parkinson
Mike Herbert	

The July 15, 2015 meeting of the Utah Real Estate Commission began at 9:00 a.m. with Chair Booth conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - A motion was made and seconded to approve the written minutes from the July 15, 2015 meeting of the Commission. Vote: Chair Booth, yes; Vice Chair Little, yes; Commission Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes. Motion was approved.

Public Comment Period –

Gary Leavitt briefly discussed his concerns with R162-2f-307, Undivided Fractionalized Long-Term Estate. He submitted a document with his suggested changes to the Commission and Division.

DIVISION REPORTS

DIRECTOR’S REPORT – Jonathan Stewart

Director Stewart discussed proposed legislative issues that will be presented to the 2016 legislative session. There are five specific issues to be presented:

- 1) In 61-2f-202(2)(a) clarify the power of attorney exemption and add that it needs to be unsolicited. There are unlicensed individuals that are offering to manage properties if power of attorney is given.
- 2) Allow for administrative subpoenas to be enforced in district court. If someone refuses to comply with a subpoena, this would allow us to enforce the subpoena in court.
- 3) Clarify that if a licensee allows their license to expire they are still responsible for acts committed while they were licensed. Licensees who know they are under investigation will allow their license to expire and then argue that we no longer have jurisdiction over them.
- 4) In 61-2f-401(10) clarify that a plea and abeyance is not a conviction. In this subsection, it appears that a plea and abeyance is a form of a conviction, when it is not.
- 5) Citation authority for specific violations. Specific black-and-white violation would be codified. Licensees would have the right to appeal the citation to the Commission.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen reported in the month of July the Division received 30 complaints; opened 3 cases; closed 9 cases; leaving 293 open cases. There are 53 cases assigned to the AG's office.

Stipulation for Review

Steven T. Magnesen

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported there was a drop in licensed individuals.

Mr. Fagergren announced the Instructor Development Workshop in Park City which will be held in October.

Mr. Fagergren briefly opened discussion on the issue of “teams” in real estate transactions with regards to broker points.

There are no education stipulations for review.

COMMISSION AND INDUSTRY ISSUES

Discussion of Proposed Rules – Justin Barney

Mr. Barney announced R162-2f-401a has lapsed and is no longer a proposed rule amendment.

Mr. Barney presented proposed rule changes to R162-2f-202b, which clarifies and updated the rules for experience to qualify for a broker license.

Mr. Barney presented proposed rule changes to R162-2f-401a which would bring the rule in line with statute and updates the rule regarding the signing on behalf of a principal.

Mr. Barney presented proposed rule changes to R162-2f-401i and R162-2f-407 which further clarify the rules.

Mr. Barney presented proposed rule changes to R162-2f-501 which updated the experience table to comply with the proposals in R162-2f-202b.

A motion was made to approve the proposed rule changes to public comment with some slight changes which were discussed. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Musselman, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion carries

FORMAL HEARING:

10:00 Peter M. Coats - Application for License
Jared Parkinson, Attorney

Administrative Law Judge Jennie Jonsson conducted the hearing.

Division Witnesses:
Mark Fagergren

CLOSED TO PUBLIC

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Musselman, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion carries. An Executive Session was held from 11:35 a.m. to 12:16 p.m.

OPEN TO PUBLIC

Results of Executive Session

Results of Stipulation

Steven T. Magnesen - Approved

Results of Formal Hearing

Mr. Coats will be notified by mail as to the outcome of the hearing.

A motion was made and seconded to adjourn the meeting. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion passes. The meeting adjourned at 12:16 p.m.